

V. THERE SHOULD BE MINIMAL APPLICATION OF TITLE II REGULATIONS TO COMMERCIAL MOBILE SERVICES

There is little disagreement from the commenting parties that Title II regulation of commercial mobile services should be minimized.^{46/} In determining which regulations to apply, the Commission should examine whether each regulatory safeguard is necessary in light of existing competitive forces and whether the benefit obtained is worth the costs of the regulation to the market and to end-users.

UTC supports the Commission's proposal to vest all commercial mobile service providers with interconnection rights similar to the rights currently held by Part 22 Public Land Mobile licensees. As the USTA notes, "...interconnection can reduce the cost to provide service, can facilitate broad availability, can speed deployment and can enhance mobile service offerings based on existing and future intelligent network features." ^{47/} Furthermore, the vesting of this right in commercial mobile service providers recognizes the fact that LECs still possess monopoly control over the local exchange bottleneck.^{48/}

^{46/} See, e.g., Comcast Corp., p. 14; MTEL, p. 13, 17-18; Motorola, p. 17; GTE, p. 16-19; Telocator, p. 20; McCaw, p. 7; NYNEX, p. 18-19; CTIA, p. 30,35; Pacific/Nevada Bell, p. 17; PacTel, p. 16; AMTA, p. 19; and US West, p. 26-27.

^{47/} USTA, p. 11.

^{48/} See McCaw, p. 31.

UTC agrees with the Commission's conclusion in the NPRM that the legislation does not restrict the Commission's authority to require common carriers to provide interconnection to private entities. Contrary to US West's unsuccessful attempt to find meaning in the absence of a reference to the Commission's authority to require interconnection for private mobile services^{49/}, it is clear that the legislation does not in any way affect the Commission's authority on this matter. This authority is necessary to ensure that inequitable interconnection policies will not inhibit the growth and development of private mobile services. As GTE notes, "...private carriers can and should have access to the interconnection necessary to the conduct of their business."^{50/}

The Commission should not, however, impose interconnection obligations on commercial mobile service providers. Because commercial mobile service providers do not possess monopoly control or market dominance, requiring these providers to offer interconnection among themselves would only hamper the development of this market.

Similarly, the Commission should not burden commercial mobile licensees with the imposition of equal access requirements at this time. These requirements may impede the development of

^{49/} US West, p. 32-33.

^{50/} GTE, p. 22.

commercial mobile services and would attain no identifiable corresponding public benefits. Furthermore, the "[a]pplication of equal access requirements would extend burdensome rules designed to limit monopoly power to a market with no monopoly players."^{51/} Competition, and not regulation, will prevent anti-competitive behavior and ensure consumer choice.

VI. THE FCC SHOULD REORGANIZE THE PRIVATE RADIO BUREAU INTO A "WIRELESS SERVICES BUREAU"

UTC urges the Commission to adopt UTC's proposal for the reorganization of the Private Radio Bureau (PRB) into the "Wireless Services Bureau". Such reorganization is necessary in order to effectively implement the regulatory parity directives. The reorganization reflects the emphasis on "commercial" and "private" found in the legislation and replaces the "fixed/mobile" dichotomy, which is relevant only from a licensing standpoint.

Although the Commission has not specifically requested comments on the reorganization of the PRB, the reorganization is "necessary to provide for an orderly transition"^{52/} and, thus, pursuant to the Budget Act, should be examined in this proceeding. Moreover, as AMTA notes, the reorganization of the PRB into a Wireless or Mobile Service Bureau "has generated

^{51/} Telocator, p. 24.

^{52/} Budget Act, §6002(d)(3).

significant support within the mobile services industry."^{53/}
Finally, the establishment of a Wireless Services Bureau is in accordance with Commissioner Ervin Duggan's suggestion that a Mobile Service Bureau be explored in this rulemaking.

Therefore, the Commission should adopt UTC's reorganization plan and establish a Wireless Services Bureau to regulate both the fixed and mobile services of commercial and private systems.

VII CONCLUSION

The underlying impetus for the amendment of Section 332 was an attempt by Congress to create "regulatory parity" for competing cellular-like services; it is not to "ferret-out" any and all services that contain some for-profit component and subject them to common carrier regulation irrespective of the impact on the underlying service. Accordingly, in attempting to specify the definition of what constitutes a commercial mobile service the Commission should confine its focus to those services for which regulatory parity is needed and should not narrowly define private mobile services.

The FCC should categorically exempt traditional private land mobile radio services in which licensees operate mobile radio systems solely for their own private, internal uses. Similarly, shared systems, under which a licensee offers reserve capacity to

^{53/} AMTA, p. 16, n.14.

unlicensed eligible users or where each user of the licensed facilities is individually licensed, should continue to be treated as private mobile services since they operate on a "not-for-profit" basis.

UTC renews its support for an interpretation of "interconnected service" under which interconnected service must be offered at the end user level, i.e., the service must provide subscribers to mobile radio service with the ability to directly control access to the public switched network for purposes of sending or receiving messages to or from points on the network.

The FCC distinguish between "limited-eligibility" services that are available to a "substantial portion of the public" and services that have significant eligibility requirements that restrict service to small or specialized user groups, e.g., the Power, Petroleum and Public Safety Radio Services.

UTC supports the FCC's proposal to permit existing private land mobile licensees the flexibility to offer either commercial or private mobile service. However, UTC opposes the suggestions of companies with cellular interests that existing common carrier licensees be permitted to offer either private or commercial mobile services. UTC also opposes permitting licensees to offer both private and commercial mobile services under one license as this would pose administrative problems for the FCC.

UTC urges the FCC to license PCS for both commercial and private mobile services. Public service/public safety entities, such as utilities, have potential applications for private PCS services. Therefore, permitting private PCS to be offered will satisfy a need for such service and encourage the full development of this market.

UTC also recommends that Title II regulation of commercial mobile services be minimized. UTC supports the FCC's proposal to vest all commercial mobile service providers with interconnection rights similar to the rights currently held by Part 22 Public Land Mobile licensees. Additionally, UTC agrees with the FCC's conclusion that the legislation does not restrict the FCC's authority to require common carriers to provide interconnection to private entities. The FCC should not, however, impose interconnection or equal access obligations on commercial mobile service providers.

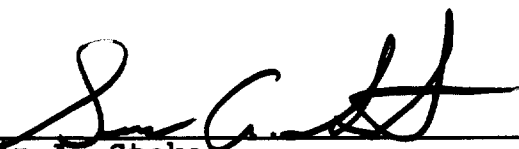
Finally, UTC urges the FCC to adopt its reorganization plan and establish a Wireless Services Bureau to regulate both the fixed and mobile services of commercial and private systems.

WHEREFORE, THE PREMISES CONSIDERED, the Utilities
Telecommunications Council respectfully requests the Commission
to take action consistent with the views expressed herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Kim Winborne, a secretary with the Utilities Telecommunications Council, hereby certify that a copy of the foregoing comments was hand delivered, this 23rd day of November, 1993, to each of the following:

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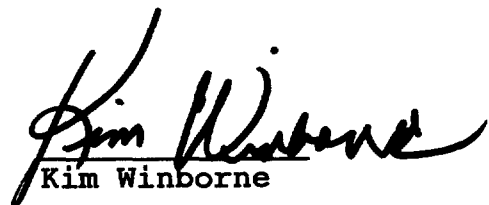
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